

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: :
 : Docket #15cr536
UNITED STATES OF AMERICA, :
 :
Plaintiff, :
 :
- against - :
 :
OMAR AMANAT, : New York, New York
 : July 13, 2016
Defendant. :
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PROCEEDINGS BEFORE
THE HONORABLE FRANK MAAS,
UNITED STATES DISTRICT COURT MAGISTRATE JUDGE

APPEARANCES:

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None

E X H I B I T S

<u>Exhibit Number</u>	<u>Description</u>	<u>ID</u>	<u>In</u>	<u>Voir Dire</u>
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THE COURT: Judge Gardephe referred for arraignment as well?

MS. ANDREA GRISWOLD: Yes, Your Honor.

THE COURT: When is - has he set a conference date?

MS. GRISWOLD: He has, July 20 at 3:30 p.m.

THE COURT: Mr. Amanat, this afternoon I'm going to advise you of your rights, inform you of the charges against you, I'll decide whether you need to have counsel appointed to represent you, and whether there are conditions under which you can be released.

You have the right to remain silent and are not required to make any statements. Even if you have made statements to the authorities, you need not make any further statements, and anything that you do say can be used against you. You also have the right to be released either with or without conditions pending a trial of this case, unless I find that there are no conditions that would reasonably assure both your presence in court and the safety of the community.

Last, you have the right to be represented by counsel during all court proceedings, including this one, and during any questioning by the authorities. I note that you have retained counsel, but should you at any point be

1
2 unable to afford counsel, you could ask that counsel be
3 appointed to represent you.

4 You've been charged in four counts in a
5 superseding indictment in this case. Count one alleges
6 that you were part of a wire fraud conspiracy in violation
7 of Title 18 U.S.C. § 1349. Count two alleges that you
8 actually committed the crime of wire fraud or aided and
9 abetted others in the commission of that crime in violation
10 of Title 18 U.S.C. §§ 1343 and 2. Count three alleges that
11 you aided and abetted investment advisor fraud in violation
12 of Title 15 U.S.C. §§ 80(b)(6) and 80(b)(17) and Section 2
13 of Title 18 of the United States Code. And last, you're
14 charged with conspiring to commit securities fraud in
15 violation of Title 18 U.S.C. § 371. Each of those crimes
16 with it a number of potential sanctions including jail
17 time.

18 I take it, counsel, you've seen the indictment and
19 had an opportunity to review it with your client?

20 MR. CHRISTOPHER FERGUSON: Yes, Your Honor.

21 THE COURT: And do you waive its public reading?

22 MR. FERGUSON: Yes, we do, Your Honor.

23 THE COURT: Is your client ready to enter his
24 plea with respect to these charges?

25 MR. FERGUSON: He is, Your Honor.

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THE COURT: What is your plea, sir, guilty or not guilty?

MR. OMAR AMANAT: Not guilty.

THE COURT: What's the Government's position on bail?

MS. GRISWOLD: Your Honor, we believe that there are conditions that can be set for the defendant's release, but we are not in agreement as to what those conditions are, and I think we need to have an argument about that.

THE COURT: Okay. Tell me what the Government's position is.

MS. GRISWOLD: Okay, Your Honor, I'm going to walk through a few points, but why don't I outline first what the package that we're seeking.

THE COURT: Okay.

MS. GRISWOLD: We're seeking a \$2 million personal recognizance bond secured by \$500,000 in cash or property, three cosigners, electronic monitoring, strict travel restrictions to the Southern and Eastern Districts of New York and the District of New Jersey where the defendant would reside at his home, surrender of travel documents, and all conditions to be met before the defendant's release.

I would note that the Pretrial is also seeking a

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2 secured bond. The language at the end of the Pretrial
3 report is a little confusing in terms of whether or not the
4 bond should be secured, but I checked with Pretrial before,
5 and they are seeking a secured bond as well.

6 Let me walk through the three points that we think
7 are key here. The first is that Mr. Amanat has the
8 incentive to flee. The second is that he has the means and
9 connections to relocate and live in a foreign jurisdiction,
10 potentially one that does not extradite to the United
11 States.

12 And, finally, I want to focus on why we believe
13 the bond was be secured and the conditions met before Mr.
14 Amanat is released. Amanat's personal signature, in our
15 view, is of little value here. As I'll detail, he has a
16 history of not paying judgments and of ignoring orders of
17 the court. In fact, we have witnesses who will testify
18 that he has boasted that he is judgment proof and that he
19 has money all over the world.

20 So let me turn first to flight risk and the
21 incentive that we believe he has to flee. The proof in
22 this case we believe is extremely strong, and the chance of
23 conviction is quite high. As outlined in the indictment,
24 this case relates to KIT Digital in the case against its
25 CEO and chairman, Mr. Kaleil Isaza Tuzman who's currently

awaiting extradition from Colombia and facing the same market manipulation charges that the defendant here faces.

The market manipulation conspiracy in this case began with a written agreement between this defendant, Mr. Tuzman, and a third individual, Mr. Stephen Maiden who ran a hedge fund in North Carolina and has since pled guilty to those market manipulation charges and is cooperating with the Government. In addition to the written agreement and Mr. Maiden's cooperation and the actual trading records showing manipulation, the email and text message evidence in this case is direct, it's on point, and it is quite persuasive. For example, there are emails in which this defendant expressly takes credit for Maiden's purchases of KIT stock pursuant to that agreement, and in addition to that evidence, as I said, Mr. Maiden is cooperating.

And the proof regarding the fraud on Maiden capital investors is equally strong. The core of this conduct all relates back to Enable which is a Dubai, United Arab Emirates based investment firm that was managed by an associate of Mr. Amanat, and Mr. Amanat solicited money for that fund, including from Maiden and from KIT digital, millions of dollars. The Enable money was lost, and when it was lost, rather than disclose those losses, we allege that Mr. Amanat turned to Maiden for another \$2 million

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2 saying it would go into Enable for a short-term loan, but,
3 in fact, it was then used to repay redemptions from other
4 investors who had lost money in Enable. And, again, the
5 wire transfer evidence, the text message and emails and Mr.
6 Maiden's testimony make the case on these counts very
7 strong.

8 So the penalties is the other thing I want to talk
9 about in terms of incentive to flee. There's a 50-year
10 statutory max here on the conduct involving defrauding
11 Maiden Capital Investors. Maiden is already serving an 84-
12 month sentence imposed by a judge in North Carolina, and
13 that sentence does not count for the market manipulation
14 conduct. We haven't done a full calculation of the numbers
15 on that count yet, but what we do know is that there was
16 more than 2 million in KIT Digital common stock shares that
17 were manipulated over a more than two-year period. And
18 that there were more than 54 million shares of KIT Digital
19 outstanding at the time. So we are likely talking about a
20 guidelines range here that easily exceeds ten years in this
21 case.

22 So that is the incentive to flee. Let me turn now
23 to the means to flee. We believe that Amanat has the means
24 and connections to relocate and support himself in a
25 foreign jurisdiction. This case and this defendant have

ties to foreign countries. As I said, Enable was a United Arab Emirates entity. The bank accounts for the wire transfers were involved accounts in the UAE, and the UAE does not extradite to the United States. Analysis of the bank account records shows us that Amanat also has wire transfers coming in from other foreign jurisdictions including the United Kingdom. He also, as I said, has boasted that he is judgment proof.

I want to note with respect to the --

THE COURT: You said that he boasted that he was judgment proof --

MS. GRISWOLD: Judgment proof.

THE COURT: -- and that he had money secreted elsewhere around the world.

MS. GRISWOLD: That is correct, Your Honor.

THE COURT: Tell me a little about that.

MS. GRISWOLD: Which brings me to the Pretrial report and the list of assets that the defendant provided. I want to address that. We do not believe that this is accurate. The defendant says that he has \$2,700 total cash in the bank at this point and represents a negative \$12,000 net worth. What we know just in terms of his current living situation, he was arrested at his rental home in Short Hills, New Jersey this morning. That home is

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2 currently listed for \$4.75 million with a rental cost of
3 17,500. The defendant himself says that he's paying 10,000
4 a month, and that money has to be coming from somewhere.

5 THE COURT: Just to be clear, he's the owner or
6 he's renting it from a third party?

7 MS. GRISWOLD: We understand that it's a rental
8 property. He indicates on the Pretrial report that he lives
9 there. Our understanding, based on our analysis, is that
10 most of the - and there are two other rental properties
11 that I'd like to mention. Most of the rental agreements
12 are in his wife's name, but the Pretrial report represents
13 her as unemployed. And if you look at a profile of her on
14 LinkedIn, it indicates that she works for entities
15 associated with Mr. Amanat.

16 There are two other properties that we have
17 identified, two waterfront penthouses in a luxury building
18 in the West Village. One rents for 20,000 a month and one
19 rents for 10,000 a month. We believe that the defendant
20 was also using these properties up until recently. I don't
21 think he's using them anymore but was on the lease for
22 those properties, he or his wife, up until recently.

23 And then in addition to that, in 2014, in
24 connection with a litigation relating to the Aman Resorts,
25 Mr. Amanat represented that he had \$100 million in liquid

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2 assets, and, of course, he also has retained counsel in
3 this case. So we believe that there's significantly more
4 assets based on what we know about his current lifestyle
5 combined with our analysis of his bank records in the past.

6 So now I'll move to the ultimate question of the
7 conditions. With these flights risk concerns, we really
8 believe that while conditions can be set, and we do believe
9 that the goal of finding the least restrictive conditions
10 that can ensure his appearance in court should be our
11 guiding principle here. We cannot let this defendant out
12 on his own signature.

13 As I said earlier, defendant has numerous default
14 and bankruptcy judgments against him. There are several
15 judges here in the United States and also abroad in the
16 United Kingdom that have identified this defendant for
17 providing false information to the court and disregarding
18 court orders. I'll give a few examples. 2004, New York
19 State Supreme Court civil action, Judge Richard Lowe held
20 that Mr. Amanat had engaged in a pattern of blatant
21 disregard of the court's orders. 2005, Southern District
22 Bankruptcy Judge Allan Gropper found that Mr. Amanat had
23 induced his chauffeur to file an involuntary bankruptcy
24 petition against him to avoid paying certain judgments, and
25 that same judge issued additional orders in 2007, 2009, and

2010 finding that this defendant was a quote, "blatant fraudster" and that there was overwhelming evidence that he had acted in bad faith.

In 2009 and 2010, the defendant defaulted on a \$24 million damages order that had been entered in January of 2009, and that was the same month that the losses were being incurred in Enable. The damages related to the 24 million related to accusations about fraudulent transfer of proceeds from certain business transactions, and the transfers of the proceeds was alleged to be to a Swiss bank account and that the money was then funneled into accounts controlled by Amanat and used for his own personal uses. And the judge in that case upheld that order.

And in total, the Government has identified to date at least five separate bankruptcy cases involving Mr. Amanat since 2005 as well as more than a dozen civil lawsuits in that same time period.

Currently, Mr. Amanat is involved in a battle over the Aman Resorts which was purchased by Amanat and a business partner in January of 2014 for \$358 million, and that business partner has accused Amanat of submitting fraudulent documents that Amanat had more than \$100 million in liquid assets in order to induce the partner to do the transaction.

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2 The reason I bring up that case it ties back to my
3 point about judges finding that Mr. Amanat disregards their
4 orders in connection with the litigation in the United
5 Kingdom, Mr. Amanat submitted statements to that judge, and
6 the judge found misstatements in this information and
7 noted, and I quote, "The potential unreliability of any
8 evidence about the financial position of entities connected
9 with Amanat and the fact that even assurances given in good
10 faith by solicitors acting for him or his companies cannot
11 necessarily be accepted at face value." The judge also
12 found that Mr. Amanat controlled that company and would do,
13 that is the shell company that was used in connection with
14 the hotel litigation, and that he would, quote, "do his
15 best to ensure that liabilities went unsatisfied."

16 And, finally, I would also note that there in
17 September of 2008 FINRA banned Mr. Amanat because he failed
18 to respond to requests for information, and likewise, in
19 2013 Mr. Amanat did not respond to SEC subpoenas issued in
20 connection with the conduct outlined in this case.

21 So we think this all means that there's a pattern
22 here that establishes that Mr. Amanat's representations
23 cannot be trusted and that a significant bond secured by
24 cash or property and electronic monitoring is warranted in
25 this case and that it is also warranted that he be detained

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2 until those conditions are in place.

3 THE COURT: Thank you. Mr. Ferguson.

4 MR. FERGUSON: Good afternoon, Your Honor. One
5 thing that counsel and I can agree on is that the purpose
6 here of bail is to set the least restrictive conditions
7 that will guarantee Mr. Amanat's --

8 THE COURT: That makes it unanimous, I agree.

9 MR. FERGUSON: And the main determination in that
10 calculus is his flight risk, and I'd like to talk about
11 several factors. I want to discuss some of the things that
12 counsel has raised but talk about several factors that she
13 hasn't raised which, number one and I think the most
14 important for consideration here, is his family ties. Mr.
15 Amanat is the father of six children, all of which are
16 located here in the New York area, three of which reside
17 with he and his wife. And as indicated in the
18 presentencing report, his wife is currently expecting his
19 seventh child.

20 All of his immediate family is located here in the
21 tri-state area. His parents, all of his aunts and uncles,
22 they all live in the New Jersey area. He has no familial
23 ties overseas, with the exception, as the report indicates,
24 a brother who recently relocated to Singapore for business
25 reasons. And so all of his ties are here to the community,

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2 and he does not have, there is not another jurisdiction
3 where Mr. Amanat would be able to reside without, with any
4 sort of support network or any connections.

5 He's also obviously willing to surrender his
6 passport. So he doesn't have the ability to leave the
7 country. Which notably he was about to expire within the
8 next week or so voluntarily because he had no intention of
9 leaving the country for travel.

10 With respect to - I just saw the indictment today.
11 I'm not going to be able to speak to it with detail that
12 the Government can. One thing I will note is that it is
13 based seemingly primarily on their cooperating witness who
14 is, as counsel just indicated, has pled guilty in an
15 entirely separate case and is currently serving an 84-month
16 sentence.

17 What I read from the indictment is that Mr. Amanat
18 brought money, made introductions between people who turned
19 out to be fraudsters, and brought money to those deals,
20 which is something that he's done throughout his
21 professional career, and it seems like in this case it was
22 with the wrong people.

23 THE COURT: But the indictment also says, does it
24 not, that he has asked for a short-term investment into
25 Enable, but instead intended to misappropriate Mr. Maiden's

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2 investment so as to repay other Enable investors in sort of
3 a ponzi scheme? But maybe I'm reading too much into this.
4 It seems to suggest that your client was, in effect,
5 misappropriating money.

6 MR. FERGUSON: Well, what I would say is Mr.
7 Maiden is the individual who's serving an 84-month sentence
8 for apparently defrauding other people. So, again, I'm
9 only reading the charges in the indictment today, but I
10 don't think that - I think based - charging instruments
11 that's based on someone who's already convicted of
12 defrauding other people who my client happened to invest
13 with is something that the Court needs to be take into
14 consideration.

15 With respect to my client's work, as counsel
16 noted, there is currently a legal dispute with respect to
17 the ownership of an international hotel conglomerate that
18 my client brought investors into and had an equity stake
19 worth on paper in excess of \$100 million. I don't know
20 what representations specifically she's referring to about
21 his net worth, but that constituted the bulk, until very
22 recently, of his net worth on paper.

23 With respect to how he's living today, some of
24 those investors were willing to advance him money. So as
25 part of the enterprise, business enterprise, my client was

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1 the chairman of the holding company of various of these
2 hotels and was entitled to a million dollar a year salary.
3 He was able to borrow against that from some of the other
4 investors which is how he was able to currently finance his
5 living. However, the primary investor, who invested over a
6 hundred million, a Russian individual, was able to
7 essentially use his influence as the primary investor in
8 the company and drive the company into effectively - and I
9 may be getting the particulars of this wrong because,
10 again, I'm knowledgeable of it as of today - but driving
11 the company underwater. And as a result, my client's prior
12 significant net paper wealth is now worth the value of a
13 lawsuit between he and the Russian investor.
14

15 So that is, A, how my client was able to live in a
16 rental property which he does not own, and, B, explains
17 some of the reason why there may be a discrepancy in what
18 his net worth would've looked like on paper previously and
19 does today.

20 But at the end of the day, what we're talking
21 about is, between the Government, is the amount of the bond
22 here. Because my concern is that my client will not have
23 the ability to secure the bond in the amount that they are
24 asking for. And while he has relatives who would be
25 willing to cosign on a recognizance bond of I would suggest

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2 a million dollars, he doesn't have the ability to actually
3 provide the security itself in the amounts that the
4 Government is asking for.

5 So I would ask that the Court abide by the
6 recommendations in the Pretrial Services report with the
7 exception of, and, again, I obviously take counsel's word
8 that this provision about security, it was a typo and that
9 there was an intention to be some amount of security there,
10 and I would ask that the Court impose those conditions, and
11 the client would obviously agree to surrender his passport
12 and to limit his travel to the metro area. New Jersey
13 obviously is where he resides and New York State. But that
14 the amounts that counsel is asking for may, de facto,
15 result in an incarcerative bail.

16 And for those reasons, Your Honor, I would ask
17 that the Court, rather than imposing the financial
18 conditions that the Government is asking for, impose a one
19 million personal recognizance bond with two cosigners and
20 his uncle who owns property here through a business in the
21 New York area but would be willing to cosign that one
22 million personal recognizance bond as well as his wife, and
23 that the remainder of the conditions in the Pretrial
24 Services report would be imposed.

25 THE COURT: Miss Griswold made mention of two

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2 other properties, and it wasn't clear to me whether they
3 were owned by the defendant or a spouse or they were simply
4 rental properties that were sublet or none of the above,
5 that they were just rental properties that formally he was
6 using. Can you enlighten me about that?

7 (pause in proceeding)

8 MR. FERGUSON: Your Honor, as to those
9 properties, they were rental properties. Mr. Amanat and
10 his wife previously lived there, and after failing to pay
11 rent for six months as a result of this bankruptcy
12 litigation and his investment, his equity stake in this
13 hotel conglomerate is dissolving, he was, he and his wife
14 were evicted. So they don't have those assets.

15 And just as a separate note, you know, it would be
16 - you could easily Google this litigation with respect to
17 the hotel franchise online and see all the details and the
18 timeline of what occurred to understand why today this
19 picture looks a lot different than it would have a short
20 time ago.

21 THE COURT: Anything else, Miss Griswold?

22 MS. GRISWOLD: One moment, Your Honor.

23 THE COURT: Sure.

24 (pause in proceeding)

25 MS. GRISWOLD: No, Your Honor.

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(pause in proceeding)

THE COURT: I agree with Mr. Ferguson, although he didn't phrase it precisely this way, that the issue here is risk of flight, not danger to the community. But I also agree with the Government that there's a significant risk of flight here, notwithstanding Mr. Amanat's many roots in the community, consisting largely of his family here. And I've come up with a bail package which is sort of a mixed bag and also has some additional conditions. I'm going to fix bail in the amount of a \$2 ½ million personal recognizance bond to be cosigned by five financially responsible persons and further secured by \$250,000 cash or property.

The defendant's travel will be restricted to the Southern and Eastern Districts of New York and the District of New Jersey. He's to surrender all travel documents and not seek new ones. He'll be subject to strict Pretrial Services supervision and home detention provided to be enforced through electronic monitoring or GPS. If he's in a suburban area, GPS may be more feasible than traditional telephone-based monitoring.

I further provided that he's to submit to urinalysis and, should he test positive, would be subject to drug testing and treatment, and I've provided that he's

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to pay for all of the cost of the - excuse me - all or part of the cost of location monitoring as determined by Pretrial Services, that he's not to possess any firearms or other weapons, and I've provided that his wife is to surrender her passport as well, that he's to be released on his own signature plus three of the five cosigners signing plus the \$250,000 in cash or property being posted plus the electronic monitoring or GPS being in place, and the wife's passport having been surrendered, and that the remaining conditions may be met by July 27.

So on balance, Mr. Amanat, those are the least restrictive conditions that would enable me to be reasonably assured that you appear in court as required, and you'll be held until you meet some of these conditions, as I indicated. Assuming you meet those, you'll be released while you comply with the other conditions, essentially two more cosigners. But if you fail to appear as required or you otherwise violate the conditions of the bond, you and whoever cosigns the bond with you will each become liable for the full \$2 ½ million amount of the bond. Whoever posts the \$250,000 in cash or property will stand to lose it. And if you fail to appear as required, you could be charged with the crime of bail jumping so that even if these various other charges were to be dismissed,

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you could be prosecuted on that charge. Do you understand
all that?

MR. AMANAT: I do.

THE COURT: Anything further this afternoon
concerning Mr. Amanat or any questions about what I've just
said?

MS. GRISWOLD: Not from the Government.

THE COURT: Mr. Ferguson.

MR. FERGUSON: No, Your Honor.

THE COURT: Thank you.

(Whereupon the matter is adjourned.)

C E R T I F I C A T E

I, Carole Ludwig, certify that the foregoing transcript of proceedings in the case of United States v. Amanat, Docket #15cr536, was prepared using digital transcription software and is a true and accurate record of the proceedings.

Signature_____

Date: July 19, 2016